

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE
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SEPT 11, 98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re General Electric Capital Assurance Company

Serial No. 74/553,068

Faye L. Mattson and James R. Uhler of Christensen, O'Connor,
Johnson & Kindness for applicant.

Darlene Bullock, Trademark Examining Attorney, Law Office 101
(Chris Wells, Managing Attorney).

Before Simms, Cissel, and Hairston, Administrative Trademark
Judges.

Opinion by Cissel, Administrative Trademark Judge:

An application has been filed by General Electric Capital
Assurance Company to register the mark SOLUTION for
underwriting annuities.¹

Registration has been finally refused under Section 2(d)
of the Trademark Act of 1946, 15 U.S.C. §1052(d), on the
ground that applicant's mark, when used in connection with its

¹ Application Serial No. 74/553,068, filed July 25, 1994 claiming
first use and first use in commerce at least as early as May 2,
1994.

services, so resembles the marks in four registrations, all issued to Hartford Life Insurance Company, as to be likely to cause confusion, or to cause mistake, or to deceive.² The four registered marks are THE SOLUTION for life insurance underwriting services;³ THE CHARITABLE SOLUTION (CHARITABLE disclaimed) for underwriting life insurance;⁴ **SOLUTIONVI**, as shown below,

for life insurance underwriting services;⁵ and THE **SOLUTIONFAMILY**, as shown below,

for life insurance underwriting services.⁶ Applicant has appealed. Both applicant and the Examining Attorney have

² The Examining Attorney also cited four additional registrations issued to Hartford Life Insurance Company, but they have since been canceled under the provisions of Section 8 of the Act, 15 U.S.C. §1058. The four canceled registrations are Registration No. 1,604,037, issued June 26, 1990 for the mark THE INVESTMENT SOLUTION (INVESTMENT disclaimed) for life insurance and annuity underwriting services; Registration No. 1,642,287, issued April 23, 1991 for the mark **SOLUTIONFOUR** for life insurance underwriting services; Registration No. 1,642,288, issued April 23, 1991 for the mark **SOLUTIONFIVE** for life insurance underwriting services; and Registration No. 1,642,289, issued April 23, 1991 for the mark **SOLUTIONVII** for life insurance underwriting services.

³ Registration No. 1,296,804, issued September 18, 1984; affidavit Sec. 8 accepted; affidavit Sec. 15 received.

⁴ Registration No. 1,651,671, issued July 23, 1991; affidavit Sec. 8 accepted; affidavit Sec. 15 received.

⁵ Registration No. 1,643,003, issued April 30, 1991; affidavit Sec. 8 accepted; affidavit Sec. 15 received.

⁶ Registration No. 1,643,006, issued April 30, 1991; affidavit Sec. 8 accepted; affidavit Sec. 15 received.

briefed the issues before us.⁷ Applicant did not request an oral hearing.

This appeal is very similar in many respects to the appeal in S.N. 74/560,083, decided on August 26, 1998, wherein the Board affirmed the refusal to register applicant's mark "SOLUTION PLUS" for "underwriting annuities" based on the likelihood of confusion with, inter alia, the marks in the same registrations listed above. Our opinion in that appeal is incorporated herein by reference, and a copy of it is attached for convenience. The same reasoning and the same responses to the same arguments made by applicant apply to the instant appeal.

Confusion is likely in the case at hand for the reasons it was in that case, namely, because the services set forth in the cited registrations are closely related and the marks create similar commercial impressions. Confusion is even more likely in the instant case because the mark in this application is only the one word, "SOLUTION," instead of the two word term, "SOLUTION PLUS," as it was there. Applicant's

⁷ With its reply brief, applicant filed a proposed amendment to its identification of services and a request for remand to the Examining Attorney for consideration of the proposed amendment. Applicant sought thereby to amend its identification to read underwriting annuities, namely, single premium deferred annuities and single premium income annuities. The Board, in an action mailed March 27, 1997, denied the request for remand, essentially because the proposed amendment would be futile. We add that our decision on the issue of likelihood of confusion presented herein would be the same even if we considered applicant's identification of services to be amended as requested.

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mark "SOLUTION" is even less distinguishable from the registered mark "THE SOLUTION" than "SOLUTION PLUS" is.

Decision: The refusal to register based on Section 2(d) of the Lanham Act is affirmed.

R. L. Simms

R. F. Cissel

P. T. Hairston
Administrative Trademark Judges
Trademark Trial & Appeal Board